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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 11

Application Number: 09/239,109
Filing Date: January 27, 1999
Appellant(s): KANEVSKY ET AL.

Robert J. Mauri
(Reg. No. 41,180)
For Appellant

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Technology Center 2100

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 24, 2002.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The appellant's statement of the grouping of claims in the brief is correct.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

Lincke et al., U.S. Patent No. 6,253,326 (6-2001)

Pepe et al., U.S. Patent No. 5,673,322 (9-1997)

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lincke et al. "Lincke", U.S. Patent No. 6,253,326, in view of Pepe et al. "Pepe", U.S. Patent No. 5,673,322.

Regarding claim 1, Lincke discloses a computer system comprising one or more memories and one or more central processing units (CPUs) [ie. proxy server, Lincke, col. 10, lines 1-36 and col. 16, line 19 - col. 19, line 24];

one or more communication interfaces, each of the communication interfaces capable of receiving a client signal from one or more clients indicating that a client is within a range of communication of the computer [Lincke, col. 10, lines 1-36, col. 16, line 19 - col. 19, line 24, and col. 11, lines 5-67]; one or more computer interfaces capable of communicating with one or more second computers, the second computers each having a computer location and one or more application programs [Lincke, col. 10, lines 56-67 and col. 16, line 19 - col. 19, line 24]; determines from one or more client signals that one or more clients are within the range of communication and that requests and receives one or more of the application programs through the computer

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interface from one or more of the second computers so that one or more clients can cause one or more of the CPUs to transfer the one or more application programs when the one or more clients request the one or more application programs [Lincke, col. 10, lines 1-36 and col. 16, line 19 - col. 19, line 24]. Lincke discloses the invention substantially as claimed except for that clients can cause a CPUs to execute application programs within the proxy server. However, Pepe, in the same field of endeavor, discloses remote proxy servers executing applications [Pepe, col. 7, line 46 - col. 8, line 64 and col. 12, lines 1-64]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate running a program on a proxy server, taught by Pepe, in to the mobile communication system, taught by Lincke, since Pepe suggests wireless Internet connection, similar to the wireless Internet access disclosed by Lincke [Lincke, col. 1, lines 40-58 and col. 2, lines 56-64], but improving the interface connections [Pepe, col. 1, lines 18-23]. One of ordinary skill in the art would have been motivated to modify Lincke to include the application interface, in view of Pepe so that the system has a more robust web connection. Therefore, it would have been obvious to combine Lincke and Pepe (Lincke-Pepe) to obtain the invention as specified in claim 1.

Regarding claim 2, Lincke-Pepe further discloses application programs are grouped into packages and one or more clients are linked to packages in such a way that application programs in each package support only clients that are linked to this package [Lincke, col. 111, lines 5-67] [Pepe, col. 12, lines 1-64].

Regarding claims 3-10, Lincke-Pepe further discloses the communication interface receives a second client signal when one or more clients that are linked to a package of programs pass outside of the range of the communication, where all clients linked to one package of programs are wearable by one person [Lincke, col. 111, lines 5-67] [Pepe, col. 12, lines 1-64].

Regarding claims 11 and 13-18, Lincke-Pepe further discloses where the computer discards one or more of the applications after one or more clients pass outside of the range and after the discarded applications have been sent to one or more of the second computers [Lincke, col. 86, lines 17-67 and col. 111, lines 5-67] [Pepe, col. 5, lines 46-61].

Regarding claim 12, Lincke-Pepe further discloses the computer determines whether one or more clients are outside of range by measuring distance from this computer to these clients [Lincke, col. 111, lines 5-67] [Pepe, col. 5, lines 46-61].

Regarding claim 19, Lincke-Pepe further discloses the communication interface includes any one or more of the following: a radio link, an infrared link [Lincke, col. 8, lines 50-63] [Pepe, col. 13, lines 4-10].

Regarding claim 20, Lincke-Pepe further discloses the computer interface includes any one or more of the following: a network, a wide area network, a local area

network, an internet, an intranet, a telephone network, a radio frequency network
[Lincke, col.8, lines 7-63] [Pepe, col. 12, lines 1-64 and col. 13, lines 4-10].

Regarding claim 21, Lincke-Pepe further discloses the client includes any one or more of the following: a moving computer, a pen input device, a personal data assistant, a watch, a palm top, a telephone, a key, a speech recognition system [Lincke, col. 8, lines 50-63] [Pepe, col. 13, lines 4-10].

Regarding claim 22, Lincke-Pepe further discloses incorporation in any one or more of the following: a printer, a television, a microwave, a refrigerator, a car, a public structure, a lamppost, a mailbox [Lincke, col.8, lines 7-63 and col. 9, line 59 - col. 10, line 55] [Pepe, col. 7, lines 1-14].

Regarding claim 23, Lincke-Pepe further discloses one or more of the second computers is a main computer that has copies of all of the applications as backup [Lincke, col. 10, lines 56-67] [Pepe, col. 10, line 57 - col. 11, line 9].

Regarding claim 24, Lincke-Pepe further discloses one or more of the second computers is a local computer that has copies of all applications for all clients that are in a communication range of another second computer that is in a communication range with the local computer [Lincke, col. 10, lines 56-67 and col. 11, lines 5-67] [Pepe, col. 10, line 57 - col. 11, line 9].

Regarding claim 25, Lincke-Pepe further discloses one or more clients send a request for some item or application in a package to one or more second computers and if such application or an item is not available one or more second computers send a request for this application or item to the main computer and the main computer performs the requested application for these one or more clients or send them the requested item [Lincke, col. 10, lines 56-67 and col. 111, lines 5-67] [Pepe, col. 12, lines 20-64].

Regarding claim 26, Lincke-Pepe further discloses the requested item and application are sent to packages in one or more second computers that are linked to one or more clients that requested this item or application [Lincke, col. 111, lines 5-67] [Pepe, col. 12, lines 20-64].

Regarding claim 27, Lincke-Pepe further discloses one or more clients send a request for some item/application in a package and an address of the local computer to one or more second computers [Lincke, col. 111, lines 5-67] [Pepe, col. 12, lines 20-64].

Regarding claims 28-32, Lincke-Pepe further the local computer checks whether it has the requested item/application if it is in the range of communication from one or more second computers and where the local computer sends the requested item/application if the local computer found the item/application [Lincke, col. 16, lines 26-64 and col. 111, lines 5-67] [Pepe, col. 8, lines 16-64].

Regarding claim 33-35, Lincke-Pepe further discloses the request for the item/application was sent to the local server at the address that was received by the main server if this item/application was not found in the main server [Lincke, col. 16, lines 26-64 and col. 111, lines 5-67] [Pepe, col. 8, lines 16-64].

Regarding claims 36-42 and 47-53, Lincke-Pepe further discloses where part of the application remains as a second portion on one or more of the second computers, the application portion is a front end of a speech recognition system, a front end of a word processing system (where the front end of the word processing system includes a keyboard), an automatic speech recognition front end, an automatic handwriting recognition system front end, a user verification system front end, a user identification system front end, a natural language understanding system front end [Lincke, col. 16, lines 26-64 and col. 111, lines 5-67] [Pepe, col. 6, lines 56-67].

Regarding claims 43-46, Lincke-Pepe further discloses the application portions are classified in accordance with how processes that are needed to run these applications can be handled, where processes can be handled to be run in parallel, can be shared by different applications or can be substituted [Lincke, col. 16, lines 26-64] [Pepe, col. 8, lines 16-64].

Regarding claims 54-56, Lincke-Pepe further discloses the applications are received in a priority order, where priority order include the following: applications that

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are currently used by a user, applications that are shared by many users, applications that shared by small number of users, applications that involve clients that are wearable by a user and is defined by history data on how often some applications were used [Lincke, col. 16, lines 26-64, col. 18, lines 22-37, and col. 111, lines 5-67] [Pepe, col. 8, lines 16-64].

Regarding claim 57, Lincke-Pepe further discloses the applications are received from a backup computer if communication with second computer fails [Lincke, col. 10, lines 56-67 and col. 111, lines 5-67] [Pepe, col. 12, lines 20-64].

Regarding claim 58, Lincke-Pepe further discloses the client signal is received from one or more of the following location devices: a pressure sensor, an ultrasonic detector, a radio frequency tag, a motion detector [Lincke, col.8, lines 7-63] [Pepe, col. 6, lines 56-67].

Regarding claim 59, Lincke-Pepe further discloses the applications include any one or more of the following: a web browser, a financial program, a word processing program, a search engine, a database used by the application, a general database [Lincke, col. 10, lines 1-55] [Pepe, col. 6, lines 56-67].

Regarding claim 60, Lincke-Pepe further discloses one or more of the applications are discarded if that are not executed by one or more of the CPUs within a time period [Lincke, col. 111, lines 5-67] [Pepe, col. 6, lines 56-67].

(11) *Response to Argument*

For the above reasons, it is believed that the rejections should be sustained.

(A) Lincke does not teach that a proxy server or “base station” determines whether a client is within a range of communication.

As to point A, Lincke does disclose a process that determines from one a client signals that the client is within the range of communication. A part of the system of Lincke determines from one a client signals that the client is within the range of communication with the base station in communication with the proxy server. The client is the wireless communication device [Lincke, col. 10, line 1-17 and col. 15, line 56 – col. 18, line 24]. During patent examination and prosecution, claims must be given their broadest reasonable interpretation. Giving the instant claims their broadest reasonable interpretation, “an application process that determines whether a client is within a range of communication” is broad enough to read on the combination of the base station in communication with the proxy server, as seen by the client, disclosed Lincke.

(B) Lincke does not disclose executing application programs.

As to point (B), Lincke discloses the invention substantially as claimed except for a client can cause a CPU to execute application programs within the proxy server.

However, Pepe, in the same field of endeavor, discloses remote proxy servers executing applications [Pepe, col. 7, line 46 - col. 8, line 64 and col. 12, lines 1-64]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate running a program on a proxy server, taught by Pepe, in to the mobile communication system, taught by Lincke, since Pepe suggests wireless Internet connection, similar to the wireless Internet access disclosed by Lincke [Lincke, col. 1, lines 40-58 and col. 2, lines 56-64], but improving the interface connections [Pepe, col. 1, lines 18-23]. One of ordinary skill in the art would have been motivated to modify Lincke to include the application interface, in view of Pepe so that the system has a more robust web connection.

(C) The “web server” or “wireless communication device” is equated with the “computer system of Applicants’ independent claim.

As to point (C), as shown in point (A), Lincke does disclose a process that determines from one a client signals that the client is within the range of communication. A part of the system of Lincke determines from one a client signals that the client is within the range of communication with the base station in communication with the proxy server. The client is the wireless communication device [Lincke, col. 10, line 1-17 and col. 15, line 56 – col. 18, line 24].

(D) Pepe does not disclose determining whether a client is within a range of communication.

As to point (D), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As shown in point (A), Lincke does disclose a process that determines from one a client signals that the client is within the range of communication. A part of the system of Lincke determines from one a client signals that the client is within the range of communication with the base station in communication with the proxy server. The client is the wireless communication device [Lincke, col. 10, line 1-17 and col. 15, line 56 – col. 18, line 24].

(E) Pepe does not disclose executing application programs.

As to point (E), during patent examination and prosecution, claims must be given their broadest reasonable interpretation. Pepe discloses remote proxy servers executing query script programs [Pepe, col. 7, line 46 - col. 8, line 64 and col. 11, line 54 - col. 12, line 64]. Giving the instant claims their broadest reasonable interpretation, “executing application programs” is broad enough to read on the combination of executing query script programs, as seen by the client, disclosed Pepe.

(F) The combination of Lincke and Pepe teach away from the present invention (ie. claim 1 is designed to have applications and data follow users who are wearing a client).

As to point (F), Pepe teaches that a proxy can be split into a local proxy and a remote proxy but still one proxy used [Pepe, col. 7, line 58 – col. 8, line 15], like the proxy disclosed by Lincke. Therefore, the combination of Lincke and Pepe disclose the instant, claimed invention (as shown above). It is noted that the features upon which applicant relies (i.e., wearable client) is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

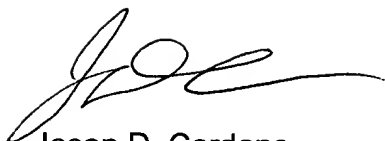
(G) Lincke nor Pepe disclose discarding an application when a client passes outside of the range of communication.

As to point (G), during patent examination and prosecution, claims must be given their broadest reasonable interpretation. Lincke discloses the proxy server throws away (discards) requests after a certain time [Lincke, col. 86, lines 17-67]. Lincke discloses changing proxy servers (ie. going out of range of an initial server) and the initial server discarding the request to it, after a period of time (ie. the client is out of range).

(H) Lincke nor Pepe disclose the applications are received in a priority order

As to point (H), Lincke discloses that the first query (application) has priority over other queries [Lincke, col. 18, lines 22-37]. During patent examination and prosecution, claims must be given their broadest reasonable interpretation.

Respectfully submitted,

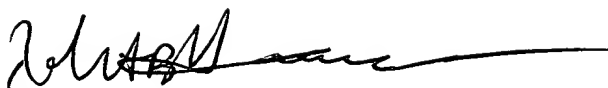


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